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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

T.U. and V.W., individually and on behalf of  
all others similarly situated,

Plaintiff(s),

v.

COOPERSURGICAL, INC.,

Defendant/Third-Party  
Plaintiff,

v.

EMBRYOTECH LABORATORIES INC.,  
HAMILTON THORNE LTD.,

Third-Party Defendants.

Case No.: 4:24-cv-01261-JST

Assigned to the Hon. Jon S. Tigar, Courtroom  
6

**DEFENDANT COOPERSURGICAL,  
INC.'S OPPOSITION TO THIRD-PARTY  
DEFENDANTS EMBRYOTECH  
LABORATORIES INC. AND HAMILTON  
THORNE LTD.'S ADMINISTRATIVE  
MOTION FOR LEAVE TO FILE  
STATEMENT OF RECENT DECISION**

Complaint Filed: March 1, 2024  
Trial Date: Not Set

1 **I. INTRODUCTION**

2 Defendant/Third-Party Plaintiff CooperSurgical, Inc. opposes the Administrative Motion  
3 of Third-Party Defendants Embryotech Laboratories, Inc. and Hamilton Thorne, Ltd. (“Third-  
4 Party Defendants”) for Leave to File a Statement of Recent Decision under Local Rule 7-3(d) of  
5 the United States District Court for the Northern District of California, which Third-Party  
6 Defendants claim is relevant to their Motions to Dismiss for Lack of Personal Jurisdiction (ECF  
7 Nos. 139, 140).

8 The Court should deny leave under Local Rule 7-3(d) to file the October 30, 2025 Order  
9 of the Honorable Judge Mark A. Young granting a Motion to Quash Service of Summons in the  
10 Superior Court of California for the County of Los Angeles in the action titled *A.B., et al. v.*  
11 *CooperSurgical, Inc. et al.*, Case No. 24STCV00234 and related cases (“Order”), because the  
12 Order is an unpublished interim decision of a state trial court.

13 **II. ARGUMENT**

14 Local Rule 7-3(d)(2) governs the filing of supplemental material after a reply brief has  
15 been filed on a motion. The Rule permits the filing of “published” opinions—not unpublished  
16 opinions such as the Order, as follows:

17 Before the noticed hearing date, counsel may bring to the Court’s attention  
18 a relevant judicial opinion *published* after the date the opposition or reply  
19 was filed by filing and serving a Statement of Recent Decision. Such  
Statement shall contain a citation to and provide a copy of the new opinion  
without argument.

20 *Id.* (emphasis added).<sup>1</sup> The Third-Party Defendants’ Motion for Leave fails to meet the  
21 requirements of the Local Rules, and should be denied.

22 This Court’s requirement regarding published opinions is consistent with California state  
23 rules regarding the citation of unpublished decisions made by a California Court of Appeal or  
24 Superior Court appellate division. While the California rules are not binding here, and relate to  
25

26 <sup>1</sup> See also N.D. Cal. L.R. 3-4(d)(5) (“Citation to Authorities”) (“In any citation to a state court,  
27 citations must include either the official reports or any official regional reporting service (e.g.,  
28 West Publishing). If the case is not yet available in those formats but is available on electronic  
databases, citation must indicate the database, year, and any screen or page numbers, if  
assigned.”).

appellate opinions, this Court may wish to consider California Rule of Court, Rule 8.1115 for its persuasive authority, given that the Order at issue is not that of a federal court or Appellate Court, but is instead an interim order from a Superior Court. California Rule of Court, Rule 8.1115 states:

**(a) Unpublished opinion**

Except as provided in (b), an opinion of a *California Court of Appeal* or *superior court appellate division* that is *not certified for publication or ordered published must not be cited or relied on by a court or a party in any other action.*

**(b) Exceptions**

An unpublished opinion may be cited or relied on:

(1) When the opinion is relevant under the doctrines of law of the case, res judicata, or collateral estoppel . . . .

Cal. Rules of Ct., Rule 8.1115 (“Citation of opinions”) (emphasis added).

Moreover, under California law, trial court decisions such as the Order have no precedential value, and are not considered citable authority. *See Harrott v. Cnty. of Kings*, 25 Cal. 4th 1138, 1148 (2001) (“Trial court decisions are not precedents binding on other courts under the principle of *stare decisis*.”).<sup>2</sup> The Order is also subject to reconsideration, either by the court *sua sponte* or by Defendant under California Code of Civil Procedure section 1008.

**III. CONCLUSION**

For the reasons stated above, the Court should deny the Third-Party Defendants’ Motion for Leave to File Statement of Recent Decision.

Dated: November 10, 2025

CARLTON FIELDS, LLP

By: /s/ Stephen Beke

Holly Unger Dutton

Stephen Beke

Attorneys for Defendant CooperSurgical, Inc.

<sup>2</sup> California law mirrors federal law in this respect. *See Camreta v. Greene*, 563 U.S. 692, 709 n.7 (“A decision of a federal district court judge is not binding precedent in either a different judicial district, the same judicial district, or even upon the same judge in a different case.”).

CERTIFICATE OF SERVICE

I hereby certify that on November 10, 2025, I electronically filed the foregoing document titled **DEFENDANT COOPERSURGICAL, INC'S OPPOSITION TO THIRD-PARTY DEFENDANTS EMBRYOTECH LABORATORIES INC. AND HAMILTON THORNE LTD.'S ADMINISTRATIVE MOTION FOR LEAVE TO FILE STATEMENT OF RECENT DECISION** with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record in this action.

/s/Stephen Beke

Stephen beke